

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

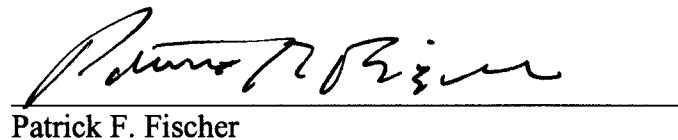
<b>JOSEPH F. HUTCHISON, et al.</b>	) <b>Case No. 1:01-789</b>
	)
<b>Plaintiffs,</b>	) <b>(Judge Beckwith)</b>
	)
<b>-v-</b>	) <b>(Magistrate Judge Hogan)</b>
	)
<b>FIFTH THIRD BANCORP,</b>	) <b>AFFIDAVIT OF PATRICK F. FISCHER</b>
	) <b>IN SUPPORT OF REPLY</b>
<b>Defendant.</b>	) <b>MEMORANDUM IN SUPPORT OF</b>
	) <b>PLAINTIFF'S MOTION FOR</b>
	) <b><u>ATTORNEY FEES</u></b>

---

I, Patrick F. Fischer, being first duly cautioned and sworn, depose and state as follows:

1. During the time Mr. Schoenfeld represented Plaintiffs, I, as counsel for Fifth Third Bancorp, repeatedly discussed settlement with him.
2. During these settlement discussions, Mr. Schoenfeld consistently demanded around \$2 million, later saying his clients might settle for \$1.5 million.
3. I consistently responded to Mr. Schoenfeld's settlement demands that, even if Plaintiffs' liability theory was correct (with which I did not agree), based upon the number of shares involved in the litigation and the highest possible price of the Fifth Third shares, the total damages would not equal more than \$350,000, absent attorneys' fees. Even if Plaintiffs were correct legally and factually, the amount recoverable could never exceed about \$500,000 with attorneys' fees.
4. After new lawyers were brought in to the litigation to represent Plaintiffs, the new lawyers continued to demand \$1.6 million into the Summer of 2005.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Patrick F. Fischer

Sworn to before me and subscribed in my presence this 2nd day of November, 2005.

  
\_\_\_\_\_  
Notary Public



LOIS M. SINGLETON  
Notary Public, State of Ohio  
My Commission Expires  
January 10, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **AFFIDAVIT OF PATRICK F. FISCHER IN SUPPORT OF REPLY MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR ATTORNEY FEES** was served upon Richard G. Meyer, William J. Moran, and John R. Kirk, Deters, Benzinger & Lavelle, PSC, Thomas More Park, 207 Thomas More Parkway, Crestview Hills, KY 41017-2596 via the Court's electronic docket, this *22<sup>nd</sup>* day of November, 2005.

◦

/s/ Christy M. Nageleisen

---

Christy M. Nageleisen

1546834.1